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Supporting Statement

for

Information Collection Request

**Exclusion Determinations for New Non-road  
Spark-ignited Engines At or Below 19 Kilowatts, New Non-road  
Compression-ignited Engines, New Marine Engines,  
and New On-road Heavy Duty Engines**

EPA Number 1852.02  
OMB Control Number 2060-0395

40 CFR 85 Subpart R  
40 CFR 89 Subpart A  
40 CFR 90 Subpart J  
40 CFR 91 Subpart K

May 2002

Certification and Compliance Division  
Office of Transportation and Air Quality  
Office of Air and Radiation  
US Environmental Protection Agency

## **1. Identification of the Information Collection**

### **1 (a) Title and Number of the Information Collection**

Exclusion Determinations for New Non-road Spark-ignited Engines at or Below 19 Kilowatts, New Non-road Compression-ignited Engines, New Marine Engines, and New On-road Heavy Duty Engines; EPA Number 1852.02; OMB Control Number 2060-0395.

### **1(b) Short Characterization**

Under the provisions of the Clean Air Act (Act), the Administrator is required to promulgate regulations to control air pollutant emissions from 'motor vehicles' and 'non-road engines', as defined in the Act. Motor vehicles and non-road engines not meeting the applicable definitions are excluded from compliance with current regulations.

A manufacturer may make an exclusion determination by itself; however, manufacturers and importers may routinely request EPA to make such determination to ensure that their determination does not differ from the Agency's. To request an exclusion determination, manufacturers submit a letter with a description of the engine and/or vehicle (engine type, horsepower rating, intended usage etc.,) and sales brochures, to the Engine Programs Group (EPG), Certification and Compliance Division, Office of Transportation and Air Quality. EPG uses this information to determine whether the engine or vehicle is excluded from compliance with one or more emission regulations. EPG then stores the data in its internal files, and makes it available to environmental groups and the public upon request under the Freedom of Information Act.

It is estimated that this information collection will have 12 respondents per year at a total annual cost of \$2,045.

On March 8, 2002, EPA published in the Federal Register (FR) a request for public comment on the renewal of this ICR (67 FR 10709). In that notice, EPA stated that this ICR was to be consolidated with ICR Number 12.11, "Motor Vehicle Exclusion Determinations" (OMB Control Number 2060-0294). However, this consolidation did not occur. Instead, ICR 12.11 was consolidated into ICR 00783.42, "Motor Vehicle Emission and Fuel Economy Compliance; Light Duty Vehicles, Light Duty Trucks and Motorcycles" (OMB Control Number 2060-0140). The consolidation of ICR 0012.11 into 0783.42 was described to the public through a FR notice on October 9, 2001 (66 FR 51428).

## 2. Need for and Use of the Collection

### 2(a) Need/ Authority for the collection

Section 203(a)(1) of the Clean Air Act (Act) prohibits the introduction into commerce of any motor vehicle or engine unless it is covered by a certificate of conformity. Section 208(a) of the Act provides the Administrator with the authority to require a manufacturer to "make such reports, and provide such information as the Administrator may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with [Title II of the Act] or regulations promulgated thereunder...". This authority was extended to non-road engines (small spark-ignited engines, compression-ignited engines, locomotive engines and marine engines) under Section 213(d).

The exclusion of vehicles from coverage by the Act's motor vehicle provisions is based on section 216(2) of the Act, which defines a 'motor vehicle' as "any self-propelled vehicle designed for transporting persons or property on a street or highway." Regulations promulgated at Title 40 of the Code of Federal Regulations, Section 85.1703 (40 CFR 85.1703), list criteria for determining the applicability of this definition. When one or more of these criteria are met, the vehicle is deemed not a 'motor vehicle' and is excluded from compliance with the motor vehicle emission requirements.

Section 216(10) of the Act defines 'non-road engine' as an "internal combustion engine (including the fuel system) that is not used in a motor vehicle or a vehicle used solely for competition, or that is not subject to standards promulgated under section 111 [related to 'motor vehicle' fuels] or section 202 [related to 'motor vehicles' as previously defined]." An engine not meeting the above definition would not be considered a non-road engine, and, therefore, is excluded from the non-road engine emission requirements of the Act.

A vehicle or engine may be excluded from compliance under one definition but may be subjected to emission requirements under another. For example, a vehicle can be deemed 'not for use on a street or highway' and, therefore, be excluded from the motor vehicle provisions at 40 CFR Part 85. That same vehicle may meet the definition of a nonroad engine and be covered under 40 CFR Part 89.

A manufacturer may make an exclusion determination by itself; however, manufacturers may elect to submit vehicle or engine specifications to EPA and request that EPA make the exclusion determination.

## 2(b) Practical Utility/Users of the Data

EPA collects information only when a request for exclusion determination is made or in rare instances where EPA believes that a determination made by a manufacturer or importer is erroneous. The information will be used by the Engine Programs Group (EPG), Certification and Compliance Division, Office of Transportation and Air Quality, Office of Air and Radiation.

## 3. **Nonduplication, Consultations and Other Collection Criteria**

### 3(a) Nonduplication

The applicable regulations are administered only by the Office of Transportation and Air Quality. No other program or agency collects this information.

### 3(b) Public Notice Required Prior to ICR Submission to OMB

An announcement of the public comment period for this ICR renewal was published in the Federal Register on March 8, 2002 (67 Federal Register 10709). No comments were received. A copy of the FR notice is attached.

### 3(c) Consultations

EPA consulted three past respondents regarding this information collection burden.

Contact: Mr. Jean-Luc Berne  
Company: Plein Air, Inc.  
Phone: 310.318.6222  
Fax: 310.318.6552

Contact: Mr. James Lester  
Company: Vantage Vehicle Group  
Phone: 714.744.9830 x.102  
Fax: 714.744.1300

Contact: Mr. Larry Keller  
Company: Polaris Industries  
Phone: 715.294.5329  
Fax: 715.294.2518

This ICR has been amended to reflect their comments.

### 3(d) Effects of Less Frequent Collection

Exclusion determinations are made only once. It is impossible to make an exclusion determination without the needed information.

### 3(e) General Guidelines

This section is not applicable. None of the Paperwork Reduction Act guidelines are exceeded.

### 3(f) Confidentiality

Respondents are allowed to assert a claim of confidentiality over information provided to EPA. Confidentiality will be provided in accordance with the Freedom of Information Act and EPA regulations at 40 CFR Part 2.

### 3(g) Sensitive Questions

No sensitive questions are asked in this information collection.

## **4. Respondents and Information Requested**

### 4(a) Respondents/NAICS Codes

Respondents are manufacturers, importers or vendors of on-road heavy duty vehicles, nonroad engines and nonroad equipment within the following North American Industry Classification System codes:

333111	Farm Machinery and Equipment Manufacturing
333112	Lawn and Garden Tractor and Home Lawn and Garden Equipment Manufacturing
33312	Construction Machinery Manufacturing
333618	Other Engine Equipment Manufacturing
333924	Industrial Truck, Tractor, Trailer, and Stacker Machinery Manufacturing

### 4(b) Information Requested

#### *(i) Data Items, Including Recordkeeping Requirements*

The information is voluntarily submitted and is readily available from sales brochures. The information needed to determine if an engine is covered by a rule depends on the type of engine for which the exclusion determination is requested. Such information includes:

1. On-road heavy-duty engines and vehicles (40 CFR 85.1703)
  - a. Engine type 85.1703(a)
  - b. Descriptive information of the vehicle\* 85.1703(a)(2)
    - i. "Lacks features customarily associated with safe and practical street or highway use..."
    - ii. "Exhibits features which render its use on a street or highway unsafe, impractical, or highly unlikely..."
  - c. Vehicle's capability to transport people or materials 85.1703(a)
  
2. Non-road Compression Ignition Engines (40 CFR 89)
  - a. Engine type 89.1(a)
  - b. Gross power output (horsepower rating) 89.1(a)
  - c. Intended usage 89.1(b)
  
3. Spark-ignited Marine Engines (40 CFR 89)
  - a. Engine type 91.1
  - b. Intended usage 91.1(a)
  - c. Method of usage 91.3
  - d. Descriptive information of the engine\* 91.3
  - e. Description of its technology 91.3
  - f. Emission levels 91.3
  
4. Spark-ignited Small Engines (40 CFR 90)
  - a. Engine type 90.1(a)
  - b. Gross power output (horsepower rating) 90.1(a)
  - c. Intended usage 90.1(b)
  - d. Method of usage 90.1(b)
  - e. Descriptive information of the engine\* 90.1(b)
  - f. Descriptive information of vehicle being powered\* 90.1(b)

\*In many cases, pictures from sales brochures are needed to evaluate or clarify some characteristics of the vehicle or equipment.

No recordkeeping is required under this information collection.

*(ii) Respondent Activities*

Respondents will collect readily available information and write to EPA requesting an exclusion determination. If pictures from each side of the vehicle are not available from sales brochures, the respondent will take the pictures, have the film developed, and submit the pictures along with the letter.

**5. The Information Collected -- Agency Activities, Collection Methodology and Information Management**

**5(a) Agency Activities**

EPG reviews the information submitted by the respondent and the requirements of the applicable rule(s), and answers the respondent's request for an exclusion determination. EPG also stores the data. In the event that a third party requests information about a particular exclusion determination, EPG analyzes the data for possible confidential business information and provides appropriate protection, if applicable.

**5(b) Collection Methodology and Management**

The information is collected through a letter submitted by the respondent. The respondent usually includes sales brochures and/or pictures to help describe the engine or vehicle for which an exclusion determination has been requested. The information submitted is analyzed to determine if the engine or vehicle is covered by the appropriate rules. If the engine is not covered by any rule, an exclusion determination is granted. If it is not covered by the rule under which the exclusion determination was requested but under another regulation, the requester is notified. The information is stored in internal files, and disclosed under the provisions of the Freedom of Information Act.

**5(c) Small Entity Flexibility**

The information required is the minimum needed to make an exclusion determination and is usually readily available from sales brochures. Respondents submit the information voluntarily with a minimum burden. Respondents also have the option of making the exclusion determination by themselves. Further flexibility is not necessary or appropriate.

**5(d) Collection Schedule**

The information is collected only once when an engine manufacturer or importer requests an exclusion determination.

## 6. Estimating the Burden and Cost of the Collection

Refer to Table A for further details.

### 6(a) Estimating Respondent Burden

Burden estimates were taken from the previous ICR and adjusted to reflect comments from fewer than 10 respondents consulted by EPA.

### 6(b) Estimating Respondent Cost

#### *(i) Estimating Labor Costs*

To estimate labor costs, EPA used the mean hourly wage estimates developed by the Bureau of Labor Statistics (BLS) for the Industrial and Machinery Equipment Industry (SIC Major Group 35). The hourly rate estimated by BLS for management occupations (SOC 11-0000) is \$32.78. The mean hourly rate for Secretaries, Except Legal, Medical, and Executive (SOC 43-6014) is \$11.98.

In the previous ICR, EPA used an hourly rate provided in consultation with the industry of \$38 per hour for clerical staff instead of the rates provided by BLS. At the time, EPA estimated that clerical staff at major engine manufacturing companies were involved in preparing exclusion determination requests. The rate calculated by BLS (\$15.15 per hour at the time) is an average for all manufacturing industries and did (and does) not reflect the actual cost for the engine manufacturing industry, which is much higher.

A review of exclusion determination requests received in the last three years revealed that respondents are mostly equipment manufacturers and importers. These are usually small businesses with salary rates much lower than those of engine manufacturers and, therefore, are better represented by the BLS-estimated cost rates.

Also, one past-respondent consulted by EPA commented that managers, not clerical staff, are involved in preparing these requests.

Table A, Annual Respondent Burden and Cost, has been amended to reflect these findings.



Table A  
Annual Respondent Burden and Cost

Hours and Cost per Respondent							Total Hours and Cost		
Information Collection Activity	Manager \$32.78/hr	Sec. @ \$11.98/hr	Respondent hr/yr	Labor Cost/yr	Capital Start Up Cost	O & M Cost <sup>1</sup>	Number of Respondents <sup>2</sup>	Total hr/yr	Total Cost/yr
Gather Information	2.5	0.0	2.5	\$81.95	0	0	12	30	\$983.40
Take and develop pictures	0.5	1.0	1.5	\$28.37	0	\$18.00	4	6	\$185.48
Report information	0.5	1.0	1.5	\$28.37	0	\$2.00	12	18	\$364.44
Answer additional questions from EPA	1.5	0.0	1.5	\$49.17	0	\$2.00	10	15	\$511.70
Total for one respondent	varies	varies	7.0	\$187.86	0	\$22.00	12	N/A	N/A
Total cost for the industry <sup>3</sup>	N/A	N/A	N/A	\$1,040	0	\$116	12	69	\$2,045

<sup>1</sup> Includes postage, photocopying, film and film developing expenses.

<sup>2</sup> These numbers take into account that only five respondents are expected to take and develop pictures; the remaining seven are expected to submit pictures already available in sales brochures.

*(ii) Estimating Capital and Operations and Maintenance (O&M) Costs*

Operation and Maintenance costs associated with this information collection include the photocopying of brochures, postage, film and film development (Table A). Although only four pictures are needed, one from each side of the engine or vehicle, the cost of a roll of film and its development were included entirely. These pictures are needed to evaluate some vehicle's or equipment's characteristics that could lead to its exclusion from the corresponding rule. If these pictures are available from

sales brochures, then the respondent does not have to incur these expenses.

*(iii) Capital/Start-up vs. Operating and Maintenance Costs*

There are no capital start-up costs associated with this information collection. O&M costs are discussed in section 6(b)(ii).

*(iv) Annualizing Capital Costs*

There are no capital start-up costs associated with this information collection.

6(c) Estimating Agency Burden and Cost

Government cost is based on GS-13 salary for professional engineers (\$31.73/hr). The hourly rates were obtained from the Office of Personal Management.

Refer to Table B for details.

Table B  
Annual Agency Burden and Cost

Hours and Cost per Response						Total Hours and Cost		
Information Collection Activity	GS-13 Eng. \$31.73 / hr	Hours Per Respon	Labor Cost Per Respon	Capital Start Up Cost	O&M Cost <sup>1</sup>	Number of Respon	Total hr/yr	Total Cost / yr
Review the information	1.0	1.0	\$31.73	0	0	12	12	\$380.76
Review the rules	2.0	2.0	\$63.46	0	0	12	24	\$761.52
Request additional information	1.5	1.5	\$47.60	0	\$5.00	10	15	\$525.95
Answer request	3.0	3.0	\$95.19	0	\$2.00	12	36	\$1,166.28
File information	0.5	0.5	\$15.87	0	0	12	6	\$190.38
Total per response	8.0	8.0	\$253.84	0	\$7.00	N/A	N/A	N/A
Total for EPA	N/A	N/A	\$2,951	0	\$74	12	93	\$3,025

<sup>1</sup> Includes phone calls, photocopying expenses and postage.

6(d) Estimating the Respondent Universe and Total Burden and Costs

During the last 2 years, EPA has received about 12 exclusion determination requests per year. This increase from the last estimate (10 requests per year) reflects the fact that a new category of nonroad engines (compression-ignited engines rated below 37 KW) became regulated for the first time between 1999 and 2000. EPA expects to receive, on average, 12 exclusion requests per year for the next three years. After that, that amount should decrease again.

6(e) Bottom Line Burden Hours and Cost Tables

*(i) Respondent Tally*

Number of Respondents:	12
Number of Activities:	4
Total Hours Per Year:	69
Total Labor Cost Per Year:	\$1,040
Total Annual Capital Cost:	0
Total Annual O & M Costs:	\$116
Total Costs:	\$2,045

*(ii) Agency Tally*

Number of Respondents:	12
Number of Activities:	5
Total Hours Per Year:	93
Total Labor Cost Per Year:	\$2,951
Total Annual Capital Cost:	0
Total Annual O & M Costs:	\$74
Total Costs:	\$3,025

6(f) Reasons for change in burden

Burden estimates have increased from 16.25 hours in the

previous ICR to 69 hours in this renewal for several reasons. First, the number of respondents has increased. In 1999, EPA started regulating compression-ignited (CI) engines rated below 37 kW; therefore, these engines were not included in the previous ICR. Entities or persons requesting exclusion determinations for engines in this category account for most of the responses to this information collection during the past two years.

Second, EPA has increased its burden estimates in response to comments from past respondents. Although previous estimates seemed adequate at the time, the characteristics of today's respondents have changed. Previously, EPA estimated that most respondents were engine manufacturers with certain level of knowledge about emission regulations. However, most of the respondents in the last two years are equipment manufacturers or importers who are not as familiar with EPA's emission regulations. EPA expects that trend to continue.

#### 6(g) Burden Statement

In requesting an exclusion determination, respondents are estimated to spend, in average, 7 hours per request. This estimate includes time to gather the necessary information, take and develop pictures, and send a written exclusion request to EPA. There is no recordkeeping burden associated with this ICR.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460; and to the Office of Information and Regulatory Affairs,

Office of Management and Budget, 725 17th Street, NW Washington, DC 20503, Attention: Desk Officer for EPA. Include the EPA ICR number 1852.02 and OMB control number 2060-0395 in any correspondence.